

## Item W05-09 Response Form

**Title:** Revision of forms used to give notice of hearings in probate proceedings and adoption of new proof-of-service attachments to these notice forms (**revise forms DE-120 and GC-020, adopt forms DE-120(P), GC-020(P), DE-120(MA)/GC-020(MA), DE-120(PA)/GC-020(PA), and GC-020(C)**)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **only if modified**
- ☐ **Do not agree** with proposed changes

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Please **write** or **fax** or **respond using the Internet** to:

**Address:** Ms. Romunda Price,  
Judicial Council, 455 Golden Gate Avenue,  
San Francisco, CA 94102  
**Fax:** (415) 865-7664      **Attention:** Romunda Price  
**Internet:** [www.courtinfo.ca.gov/invitationstocomment](http://www.courtinfo.ca.gov/invitationstocomment)

<b>DEADLINE FOR COMMENT: 5:00 P.M Friday, February 4, 2005</b>
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Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

<i>Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.</i>
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Title	Revision of forms used to give notice of hearings in probate proceedings and adoption of new proof-of-service attachments to these notice forms. (revise forms DE-120 and GC-020, adopt forms DE-120(P), GC-020(P), DE-120(MA)/GC-020(MA), DE-120(PA)/GC-020(PA), and GC-020(C))
Summary	The proposed revision of forms GC-020, <i>Notice of Hearing Guardianships or Conservatorships</i> and DE-120, <i>Notice of Hearing (Probate)</i> , would clarify instructions in both forms concerning access to confidential court-filed documents and advise hearing-impaired persons of the availability of assistive listening systems or sign language interpreter services for court hearings. Form GC-020 would also be revised to provide for specific notice of a petition for extraordinary powers of a guardian of the person and to add instructions concerning service of the form and proof of that service. Proposed new form attachments to both notice forms would provide a means to prove personal service of these forms and to show service on an extended list of eligible persons.
Source	Probate and Mental Health Advisory Committee The Hon. Don E. Green, Chair
Staff	Douglas C. Miller Attorney Office of the General Counsel counsel to the advisory committee (415) 865-7535, (714) 865-7664 (Fax) douglas.miller@jud.ca.gov
Discussion	<p><i>Form GC-020, Notice of Hearing—Guardianship or Conservatorship</i> This form is a mandatory form that must be used to give interested persons notice of court hearings in probate guardianship and conservatorship proceedings. The form would be revised as follows:</p> <ol style="list-style-type: none"> <li>1. The instructions for item 2 on page 1 would be revised to advise interested persons that some documents filed with the court are confidential but that the court may grant access to such documents in some circumstances.</li> </ol> <p>The current instruction recites that all case documents filed with the court are available for examination in the court's case file. This instruction is inconsistent with statutes and rules of court that make court investigators' reports and certain other</p>

documents confidential, but permit certain persons to apply to the court for access to such documents.<sup>1</sup>

2. Item 3 on page 1 of the form would be revised by adding a checkbox at the beginning of the form and two additional checkboxes preceding and following a new reference to independent powers of a guardian of the person under Probate Code section 2108.

Item 3 calls for identification of noticed petitions that request independent powers of a guardian or conservator of the estate and require a description of the powers requested, but is silent concerning independent powers of a guardian of the person under section 2108. Adding a reference in item 3 to section 2108 powers would equalize the specific notice required of requests for independent powers for both types of guardians.<sup>2</sup>

Most petitions in guardianships and conservatorships, perhaps even most petitions for appointment of a guardian or conservator, do not request independent powers; item 3 thus does not apply in most cases. The checkbox at the beginning of the item would clarify when it does and does not apply.

3. Notice of a hearing-impaired person's right to request the court to make assistive hearing equipment or the services of a sign-language interpreter available for the noticed hearing would be added to the first page of the form, in the format recently approved by the Judicial Council for addition to several forms adopted effective January 1, 2005.<sup>3</sup>
4. The clerk's certificate of posting at the top of page 2 of the existing form would be replaced by a text box containing detailed instructions about the requirements of service of the notice and filing proof of service with the court.<sup>4</sup>

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<sup>1</sup> Probate Code sections 1826(n), 1821(a), 1513.2(c), and 1513(d); California Rules of Court, rules 7.1001 and 7.1050.

<sup>2</sup> See 1 California Guardianships and Conservatorships (Cont. Ed. Bar) pages 417–418, § 7.49 (2003).

<sup>3</sup> See Civil Code section 54.8; existing form MC-410, *Request for Accommodations by Persons with Disabilities and Order*; and civil harassment proceeding forms CH-120, CH-125, CH-150, and CH-151, revised by the Judicial Council on October 15, 2004, effective January 1, 2005.

<sup>4</sup> The clerk's certificate would be moved to a separate attachment, form GC-020(C).

Self-help centers attached to courts around the state and others have advised that many unrepresented petitioners have difficulty with service of notices of hearing and other documents in these proceedings. The proposed instructions are intended to provide basic advice about service and proof of service in guardianships and conservatorships, including the requirement of personal service in some circumstances and the fact that the petitioning party cannot personally perform the service or sign a document that proves service has been made.

The space for the names and addresses of the persons to be served by mail with copies of the form has been revised to conform to the format of the newest forms approved by the Judicial Council for proving service.<sup>5</sup> These forms feature borders around spaces available for the names and addresses of persons served or the description of documents served. These borders are proposed to enhance the legibility of completed forms, even those filled out by hand.

*Form DE-120, Notice of Hearing—Probate*

This notice form is used in all probate proceedings other than guardianships or conservatorships, including decedents' estates and trust proceedings. The form would be revised to parallel the relevant changes in form GC-020, including the addition of a reference to confidential documents in the instructions to item 2, addition of a notice to hearing-impaired persons on page 1 of the form, and reformatting of the space available for the names and addresses of persons served by mail.

*Proof-of-service attachments*

Separate proofs of personal service designed as attachments to both notice of hearing forms are proposed, designated as DE-120(P) and GC-020(P). Both forms may be personally served in lieu of service by mail, and form GC-020 must be personally served on certain persons at the commencement of a guardianship proceeding (Prob. Code, § 1511). There is currently no Judicial Council form designed for use to prove personal service of either notice of hearing form.

Both notice of hearing forms do contain a proof of service by mail, the

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<sup>5</sup> See, e.g., Judicial Council forms POS-020(D), POS-020(P), POS-030(D), POS-030(P), POS-040(D), and POS-040(P), attachments to proof of service forms for use in civil cases, approved for optional use effective January 1, 2005.

form of service most often used. However, the space available for listing the persons served is limited. The forms call for an attachment for listing the names and addresses of persons served in addition to those that can be listed in the form itself. This is a very common occurrence. Attachment forms are proposed for use with either notice form to list additional names of persons served by mail or personally, designated, respectively, as DE-120(MA)/GC-020(MA) and DE-120(PA)/GC-020(PA).

*Form GC-020(C), Clerk's Certificate of Posting*

This attachment form is proposed to replace the clerk's certificate of posting that would be removed from revised form GC-020 to make room for instructions about service and proof of service of that form. This form is designed to be attached to the notice of hearing for completion by the clerk and filing with the original notice where the clerk is required to post notice of a hearing in a guardianship or conservatorship proceeding. (See Prob. Code, § 2543(c).)

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Attachments

<input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP    OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): _____ <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/> MINOR    <input type="checkbox"/> (PROPOSED) CONSERVATEE       </div>	CASE NUMBER: _____
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**CLERK'S CERTIFICATE OF POSTING NOTICE OF HEARING—GUARDIANSHIP OR CONSERVATORSHIP**

**(For court use only.)**

*(Attach to a copy of the posted Notice of Hearing—Guardianship or Conservatorship.)*

1. I certify that I am not a party to this cause.
2. A copy of the attached *Notice of Hearing Guardianship or Conservatorship*
  - a. was posted at (address):

b. was posted on (date):

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

<input type="checkbox"/> ESTATE <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> MATTER OF _____ (Name): _____	CASE NUMBER: _____
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**ATTACHMENT TO NOTICE OF HEARING PROOF OF PERSONAL SERVICE***(This Attachment is for use with forms DE-120(P) and GC-020(P))***NAME OF EACH PERSON PERSONALLY SERVED, ADDRESS WHERE SERVED, AND DATE AND TIME SERVICE WAS MADE**

<u>No.</u>	<u>Name</u>	<u>Address Where Served (number, street, city, and state)</u>	<u>Date and Time Service Made</u>
—			Date: _____ Time: _____
—			Date: _____ Time: _____
—			Date: _____ Time: _____
—			Date: _____ Time: _____
—			Date: _____ Time: _____
—			Date: _____ Time: _____
—			Date: _____ Time: _____
—			Date: _____ Time: _____
—			Date: _____ Time: _____
—			Date: _____ Time: _____
—			Date: _____ Time: _____

<input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP   OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): _____ <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/> MINOR   <input type="checkbox"/> (PROPOSED) CONSERVATEE       </div>	CASE NUMBER: _____
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**PROOF OF PERSONAL SERVICE OF NOTICE OF HEARING—GUARDIANSHIP OR CONSERVATORSHIP**

*(Attach a separate completed and signed copy of this form to Notice of Hearing—Guardianship or Conservatorship for each person who personally served a copy of the Notice.)*

1. I am over the age of 18 and not a party to this cause.
2. I served the attached *Notice of Hearing—Guardianship or Conservatorship* by personally delivering a copy to each person listed below at the address and on the date and time indicated below.
3. ☐ I served with the attached *Notice of Hearing—Guardianship or Conservatorship* a copy of the petition or other document referred to in the Notice
4. ☐ I served with the attached *Notice of Hearing—Guardianship or Conservatorship* copies of the following documents (*specify*):  
  
☐ Continued on Attachment 4 to form GC-020(P).
5. I am (*check all that apply*):
  - a. ☐ not a registered California process server.
  - b. ☐ a California sheriff or marshal.
  - c. ☐ a registered California process server.
  - d. ☐ an employee or independent contractor of a registered California process server.
  - e. ☐ exempt from registration (Bus. & Prof. Code, § 22350(b)).
6. My name, address, and telephone number, and if applicable, county of registration and number, are (*specify*):

**NAME OF EACH PERSON PERSONALLY SERVED, ADDRESS WHERE SERVED, AND DATE AND TIME SERVICE WAS MADE**

	<u>Name</u>	<u>Address Where Served (number, street, city, and state)</u>	<u>Date and Time Service Made</u>
1.			Date: _____ Time: _____
2.			Date: _____ Time: _____
3.			Date: _____ Time: _____
4.			Date: _____ Time: _____

☐ List of names and addresses of persons personally served by the undersigned continued on *Attachment to Notice of Hearing Proof of Personal Service*, form DE-120(PA)/GC-020(PA).

**I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

**(For California sheriff or marshal use only)**  
**I certify** that the foregoing is true and correct

Date: \_\_\_\_\_

▶ \_\_\_\_\_

(SIGNATURE )

▶ \_\_\_\_\_

(SIGNATURE )



<input type="checkbox"/> ESTATE OF (Name): <input type="checkbox"/> IN THE MATTER OF (Name):	CASE NUMBER:
<input type="checkbox"/> DECEDENT <input type="checkbox"/> TRUST <input type="checkbox"/> OTHER	

**PROOF OF PERSONAL SERVICE OF NOTICE OF HEARING—PROBATE**

*(Attach a separate completed and signed copy of this form to Notice of Hearing—Probate for each person who personally served a copy of the Notice.)*

1. I am over the age of 18 and not a party to this cause.
2. I served the attached *Notice of Hearing—Probate* by personally delivering a copy to each person listed below at the address and on the date and time indicated below.
3. ☐ I served with the attached *Notice of Hearing—Probate* a copy of the petition or other document referred to in the Notice.
4. I am *(check all that apply)*:
  - a. ☐ not a registered California process server.
  - b. ☐ a California sheriff or marshal.
  - c. ☐ a registered California process server.
  - d. ☐ an employee or independent contractor of a registered California process server.
  - e. ☐ exempt from registration (Bus. & Prof. Code, § 22350(b)).
5. My name, address, and telephone number, and if applicable, county of registration and number, are *(specify)*:

**NAME OF EACH PERSON PERSONALLY SERVED, ADDRESS WHERE SERVED, AND DATE AND TIME SERVICE WAS MADE**

	<u>Name</u>	<u>Address Where Served (number, street, city, and state)</u>	<u>Date and Time Service Made</u>
1.			Date: _____ Time: _____
2.			Date: _____ Time: _____
3.			Date: _____ Time: _____
4.			Date: _____ Time: _____
5.			Date: _____ Time: _____
6.			Date: _____ Time: _____

☐ List of names and addresses of persons personally served by the undersigned continued on *Attachment to Notice of Hearing Proof of Personal Service*, form DE-120(PA)/GC-020(PA).

**I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

**(For California sheriff or marshal use only)**  
**I certify** that the foregoing is true and correct

Date:

Date:



(SIGNATURE )



(SIGNATURE )

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):    TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>    <b>DRAFT 12</b> <b>11/05/04</b>  <b>Not Approved by</b> <b>the Judicial</b> <b>Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name):  <input type="checkbox"/> MINOR <input type="checkbox"/> (PROPOSED) CONSERVATEE	
<b>NOTICE OF HEARING—GUARDIANSHIP OR CONSERVATORSHIP</b>	CASE NUMBER:

**This notice is required by law.**  
**This notice does not require you to appear in court, but you may attend the hearing if you wish.**

1. NOTICE is given that (name):  
 (representative capacity, if any):  
 has filed (specify):
  
2. You may refer to documents on file in this proceeding for further particulars. (Some documents filed with the court are confidential. Under some circumstances you or your attorney may be able to see or receive copies of confidential documents if you file papers in the proceeding or apply to the court.)
  
3. ☐ The petition includes an application for the independent exercise of powers by a guardian or conservator under  
☐ Probate Code section 2108 ☐ Probate Code section 2590.  
 Powers requested are ☐ specified below ☐ specified in Attachment 3.
  
4. A HEARING on the matter will be held as follows:

a. Date:	Time:	Dept.:	Room:
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b. Address of court ☐ same as noted above ☐ is (specify):

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for *Request for Accommodations by Persons with Disabilities and Order* (form MC-410). (Civil Code section 54.8.)



**NOTE: \***

A copy of this *Notice of Hearing—Guardianship or Conservatorship* ("Notice") must be "served" on—delivered to—each person who has the right under the law to be notified of the date, time, place, and purpose of a court hearing in a guardianship or conservatorship. Copies of this Notice may be served by mail in most situations. In a guardianship, however, copies of this Notice must sometimes be personally served on certain persons; and copies of this Notice may be personally served instead of served by mail in both guardianships and conservatorships. The petitioner (the person who requested the court hearing) **may not personally perform either service by mail or personal service**, but must show the court that copies of this Notice have been served in a way the law allows. The petitioner does this by arranging for someone else to perform the service and complete and sign a proof of service, which the petitioner then files with the original Notice.

This page contains a proof of service that may be used only to show service by mail. To show personal service, each person who performs the service must complete and sign a copy of *Proof of Personal Service of Notice of Hearing—Guardianship or Conservatorship*, form GC-020(P), and each signed copy of that form must be attached to this Notice when it is filed with the court.

### PROOF OF SERVICE BY MAIL

- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

▶

(SIGNATURE OF PERSON COMPLETING THIS FORM)

Address (number, street, city, state, and zip code)

☐ Continued on *Attachment to Notice of Hearing Proof of Service by Mail*, form DE-120(MA)/GC-020(MA).

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):   TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY  <p style="text-align: center;"><b>DRAFT 2</b> <b>10/19/04</b></p> <p style="text-align: center;"><b>Not Approved</b> <b>by the Judicial</b> <b>Council</b></p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<input type="checkbox"/> ESTATE OF (Name): <input type="checkbox"/> IN THE MATTER OF (Name):  <input type="checkbox"/> DECEDENT <input type="checkbox"/> TRUST <input type="checkbox"/> OTHER	
<p style="text-align: center;"><b>NOTICE OF HEARING—PROBATE</b></p>	
CASE NUMBER:	

**This notice is required by law.**  
**This notice does not require you to appear in court, but you may attend the hearing if you wish.**

1. NOTICE is given that (name):  
 (representative capacity, if any):  
 has filed (specify):\*

2. You may refer to the filed documents for further particulars. (Some documents filed with the court are confidential.)
3. A HEARING on the matter will be held as follows:

a.	Date:	Time:	Dept.:	Room:
b.	Address of court <input type="checkbox"/> shown above <input type="checkbox"/> is:			

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for *Request for Accommodations by Persons with Disabilities and Order* (form MC-410). (Civil Code section 54.8.)



\* Do **not** use this form to give notice of a petition to administer estate (see Prob. Code, § 8100 and form DE-121) or notice of a hearing in a guardianship or conservatorship (see Prob. Code, §§ 1511, 1822 and form GC-020).

<input type="checkbox"/> ESTATE OF <i>(Name)</i> : <input type="checkbox"/> IN THE MATTER OF <i>(Name)</i> :	CASE NUMBER:
<input type="checkbox"/> DECEDENT <input type="checkbox"/> TRUST <input type="checkbox"/> OTHER	

### CLERK'S CERTIFICATE OF POSTING

1. I certify that I am not a party to this cause.
2. A copy of the foregoing *Notice of Hearing—Probate*
  - a. was posted at *(address)*:
  
  - b. was posted on *(date)*:

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

### PROOF OF SERVICE BY MAIL

1. I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred.
2. My residence or business address is *(specify)*:
  
3. I served the foregoing *Notice of Hearing—Probate* on each person named below by enclosing a copy in an envelope addressed as shown below AND
  - a. ☐ **depositing** the sealed envelope on the date and at the place shown in item 4 with the United States Postal Service with the postage fully prepaid.
  - b. ☐ **placing** the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
4. a. Date mailed: \_\_\_\_\_ b. Place mailed *(city, state)*: \_\_\_\_\_
5. ☐ I served with the *Notice of Hearing—Probate* a copy of the petition or other document referred to in the Notice.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

\_\_\_\_\_  
(SIGNATURE OF PERSON COMPLETING THIS FORM)

### NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

	<u>Name of Person Served</u>	<u>Address (number, street, city, state, and zip code)</u>
1.		
2.		
3.		
4.		

☐ Continued on *Attachment to Notice of Hearing Proof of Service by Mail*, form DE-120(MA)/GC-020(MA).